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MEMORANDUM

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Arizona Corporation Commission

DOCKETED

JUN 17 2005

TO: Docket Control

FROM: Ernest G. Johnson  
Director  
Utilities Division

DOCKETED BY

RA

DATE: June 17, 2005

RE: STAFF REPORT IN THE MATTER OF THE APPLICATION OF COPPER VALLEY TELEPHONE COMPANY TO EXTEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY BY TRANSFERRING THE AREA FROM QWEST CORPORATION IN PORTIONS OF COCHISE COUNTY (DOCKET NO. T-02727A-03-0161)

Attached is the Staff Report for Copper Valley Telephone Company's Application to extend its Certificate of Convenience and Necessity to provide facilities-based local exchange service and other telecommunications services. Staff recommends that the Application be approved.

EGJ:DWS:lhv

Originator: Del Smith

Attachment: Original and Thirteen Copies

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Docket No. T-02727A-03-0161

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**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**COPPER VALLEY TELEPHONE COMPANY**

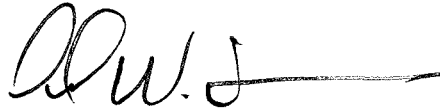
**DOCKET NO. T-02727A-03-0161**

**APPLICATION TO EXEND ITS  
CERTIFICATE OF CONVENIENCE AND NECESSITY  
IN COCHISE COUNTY**

**JUNE 2005**

## STAFF ACKNOWLEDGMENT

The Staff Report for Copper Valley Telephone Company (Docket No. T-02727A-03-0161) was the responsibility of the Staff member listed below. Del Smith was responsible for the review and analysis of the Company's Application.

A handwritten signature in black ink, appearing to read 'Del Smith', with a long horizontal stroke extending to the right.

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Del Smith  
Utilities Engineer Supervisor



**EXECUTIVE SUMMARY  
COPPER VALLEY TELEPHONE COMPANY  
DOCKET NO. T-02727A-03-0161**

Copper Valley Telephone Company ("Copper Valley" or "the Company") is seeking to extend its Certificate of Convenience and Necessity ("CC&N") in Cochise County to include two areas that are contiguous to its Elfrida Exchange. The first extension area consists of 121 sections in Townships 19, 20 and 21 South, Ranges 23 and 24 East (the "Tombstone extension area"). The Tombstone extension area requested by Copper Valley is included in the Tombstone Exchange service area map of Qwest Corporation ("Qwest"). The second area includes Section 27 in Township 21 South, Range 25 East (the "Bisbee extension area"). The Bisbee extension area requested by Copper Valley is included in the Bisbee Exchange service area map of Qwest. The Tombstone extension area and the Bisbee extension area (collectively, the "extension areas") would be served by Copper Valley's Elfrida Exchange which is east of Tombstone and northeast of Bisbee. Qwest is in agreement with the proposed transfer of the extension areas from Qwest's Tombstone and Bisbee Exchanges to Copper Valley's Elfrida Exchange.

Copper Valley states that it intends to provide the extension areas with those local exchange services identified in Copper Valley's current tariffs, including custom calling and high-speed data services. The Company requests that the Arizona Corporation Commission ("Commission") authorize it to charge those rates and charges in the extension areas that are contained in its tariffs on file with the Commission.

Current residents in the extension areas have been in contact with Copper Valley. According to Copper Valley, the residents support the transfer of the extension areas from Qwest to Copper Valley. If the Commission approves the transfer, Copper Valley could begin serving most of the customers within thirty (30) days.

Copper Valley generally asserts that the public interest, convenience and necessity would be served by granting its Application for the following reasons: 1) Copper Valley has received requests for telephone service from residents in the extension areas, 2) It is not economically feasible for the potential customers to obtain service from Qwest, 3) Qwest has agreed to the proposed transfer and 4) Copper Valley is ready, willing and able to provide telephone service to customers within the extension areas and customers would not be required to pay construction charges. Staff agrees that the public interest would be served in this case by granting Copper Valley's Application. Staff is not aware of any customer opposition to Copper Valley's Application.

Qwest stated that it is currently serving two customers with its own facilities in the Tombstone extension area. Both customers are located on Cowan Ranch Road in the west half of Section 3, Township 20 South, Range 23 East. Therefore, Staff recommends that the Tombstone extension area be amended to exclude the west half of Section 3, Township 20 South, Range 23 East.

Staff further recommends that transfer of the amended extension areas from Qwest to Copper Valley be approved subject to the following conditions:

- 1) Copper Valley and Qwest should be required to update and docket their respective Tariffs within thirty (30) days of a Commission Decision to reflect the transfer of the amended extension areas.
- 2) Copper Valley should be ordered to charge its existing rates and charges in the amended extension areas until further Order of the Commission.
- 3) Copper Valley shall apply to extend its existing Cochise County Franchise within thirty (30) days of a Commission Decision approving its Application.
- 4) Copper Valley shall docket any update to its franchise with Cochise County, which includes the amended extension areas, within 365 days of the effective date of a Decision approving its Application.

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## **I. Procedural History**

On March 17, 2003, Copper Valley Telephone Company ("Copper Valley" or "the Company") filed an Application to extend its Certificate of Convenience and Necessity ("CC&N") by transfer of the area from Qwest Corporation ("Qwest") in portions of Cochise County.

On April 11, 2003, Staff filed a Letter of Deficiency on Copper Valley's Application.

On April 23, 2003, Qwest filed a Motion for Leave to Intervene.

On May 7, 2003, a Procedural Order was issued which granted Qwest intervention.

On June 12, 2003, Copper Valley filed a supplemental filing to address deficiencies in its March 17, 2003 filing.

On March 9, 2005, Copper Valley filed its second supplemental filing to amend the requested extension area.

On April 28, 2005, Copper Valley and Qwest filed a joint application. This application requested that certain sections of land located in Qwest service territory be transferred to Copper Valley's Elfrida Exchange.

On May 9, 2005, Staff filed a Letter of Sufficiency on Copper Valley's Application.

On May 16, 2005, a Procedural Order was issued which set the matter for hearing and ordered Staff to file its Staff Report by June 17, 2005.

## **II. Background**

Copper Valley currently provides local exchange service and other telecommunications services to a number of rural communities in Arizona. Copper Valley's certificated service area in Arizona includes portions of Cochise and Greenlee Counties. Copper Valley's service area is divided into the following exchanges: Clifton, Duncan, Elfrida and York Valley. Copper Valley was serving approximately 4,600 access lines in Arizona as of December 31, 2004.<sup>1</sup> Copper Valley is a subsidiary of Valley Telephone Cooperative, Inc. ("Valley Telephone"). Valley Telephone provides local exchange service and other telecommunications services in six rural exchanges in Arizona. Valley Telephone's certificated service area in Arizona includes portions of Cochise and Graham Counties.

Copper Valley is seeking to extend its CC&N in Cochise County to include two areas that are contiguous to its Elfrida Exchange. The first extension area consists of 121 sections in

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<sup>1</sup> Per the 2004 Annual Report Copper Valley filed with the Commission.

Townships 19, 20 and 21 South, Ranges 23 and 24 East (the "Tombstone extension area").<sup>2</sup> The Tombstone extension area requested by Copper Valley is included in the Tombstone Exchange service area map of Qwest. The second area includes Section 27 in Township 21 South, Range 25 East (the "Bisbee extension area"). The Bisbee extension area requested by Copper Valley is included in the Bisbee Exchange service area map of Qwest. The Tombstone extension area and the Bisbee extension area (collectively the "extension areas") would be served by Copper Valley's Elfrida Exchange which is east of Tombstone and northeast of Bisbee. See maps and description, attached hereto as Attachment A.

Copper Valley has received a number of requests for telephone service from persons residing within the proposed extension areas. Copper Valley has existing facilities which could be used to serve these potential customers without significant delay or cost to the customers.

Copper Valley's Elfrida Exchange has local calling to the Qwest Exchanges of Tombstone, Bisbee, Douglas and Sierra Vista. Therefore, Copper Valley customers served by the Elfrida Exchange do not incur toll charges when they call the Qwest exchanges listed.

### **III. Position of the Parties**

#### **A. Copper Valley**

Copper Valley requests Commission authorization to provide basic local exchange and toll access telephone service to requesting customers, as well as any future potential customers, in the extension areas which are contiguous to Copper Valley's Elfrida Exchange. The extension areas requested by Copper Valley are located in Qwest's service area. Qwest has confirmed that it would agree to relinquish these areas to Copper Valley.<sup>3</sup> Copper Valley has received a number of requests for telephone service from persons residing within the Tombstone extension area. According to Copper Valley, those contacting it have previously requested service from Qwest, but have received quotes for construction charges that make the extension of service prohibitively expensive.<sup>4</sup> Recently a land developer requested telephone service from Copper Valley in the Bisbee extension area. There are several residents in the area that are waiting to receive service. Qwest does not have customers or facilities in the area.<sup>5</sup>

Copper Valley states that it intends to provide the extension areas with those local exchange services that are identified in Copper Valley's current tariffs.<sup>6</sup> This would include services such as basic local exchange service, touch-tone service, high-speed data (internet access) services, access to emergency services (911) and Lifeline and Link-Up services for low income subscribers. Copper Valley's proposed telephone plant will include copper cable loops

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<sup>2</sup> The Tombstone extension area is approximately 118 square miles in size.

<sup>3</sup> See Joint Filing of Copper Valley and Qwest Corporation, Introduction, page 1.

<sup>4</sup> See Application, Section II, page 2.

<sup>5</sup> See Second Supplemental Filing to Copper Valley Telephone Company's Application, Additional Service Territory, page 2.

<sup>6</sup> See Application, Section IV, page 5.

designed to support broadband circuits, fiber optic cable transport facilities, digital loop carrier and modern digital switching.

Copper Valley states in its Application that, upon information and belief, Qwest has no facilities and no customers in the extension areas.<sup>7</sup> Copper Valley asserts that potential customers in the extension areas would be required to pay significant construction charges for the extension of Qwest facilities. The Company further states it has existing facilities that could be used to extend service to potential customers. Copper Valley has estimated that it would cost approximately \$372,000 for the needed facility extensions.<sup>8</sup> However, customers would not be required to pay for construction charges since the extensions of service will be funded through monies made available from the Rural Utilities Service ("RUS").<sup>9</sup> If the Commission approves the transfer, Copper Valley estimates that it can complete construction of the facilities needed to serve most of the customers within thirty (30) days.<sup>10</sup>

Copper Valley will fund service to the extension areas using RUS funds approved in Decision Nos. 64570 and 64814 and no additional financing will be required.<sup>11</sup> Finally, Copper Valley believes the public interest will be served by approval of its Application.<sup>12</sup>

B. Qwest

On April 28, 2005, Copper Valley and Qwest submitted a joint request that certain sections of land located in Qwest's service territory be deleted from Qwest's service territory and included in Copper Valley's CC&N for its Elfrida Exchange. Residents in the extension areas are located in remote areas many miles from Qwest's existing facilities. As a result, these residents would face substantial construction charges if Qwest were to extend service under its tariff. In the interest of these residents Qwest agreed that the extension areas should be served by Copper Valley. The agreement reached by Copper Valley and Qwest regarding the transfer of the extension areas will enable residents in the affected areas to obtain wireline telephone service for the first time.<sup>13</sup>

In response to Staff discovery, Qwest stated that at the time of its response it had no requests for service in the proposed extension areas.<sup>14</sup> Qwest provided Staff with construction charge estimates to extend its facilities to serve residents located in the Tombstone extension area, the estimates provided were several thousand dollars per applicant.<sup>15</sup> When asked if Qwest

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<sup>7</sup> See Application, Introduction, page 1.

<sup>8</sup> Refer to Copper Valley's response to Staff Data Request DWS-2.17.

<sup>9</sup> Refer to Copper Valley's response to Staff Data Request DWS-1.4.

<sup>10</sup> See Supplement Filing to Address Deficiencies in Copper Valley Telephone Company's Application, Item 10, page 10.

<sup>11</sup> See Supplement Filing to Address Deficiencies in Copper Valley Telephone Company's Application, Item 9, page 9.

<sup>12</sup> See Application, Section VII, page 6.

<sup>13</sup> See Joint Filing of Copper Valley and Qwest Corporation, Background, page 2.

<sup>14</sup> Refer to Qwest's response to Staff Data Request DWS-1.8.

<sup>15</sup> Refer to Confidential Attachment A to Qwest's response to Staff Data Request DWS-2.11.

facilities would be capable of supporting high speed internet service, Qwest's response was that its Tombstone switch was not currently equipped to provide high speed internet service.<sup>16</sup>

#### **IV. Staff Analysis and Recommendations**

##### **A. Staff Analysis**

If Copper Valley's Application is granted, customers in the extension areas would be subject to the same tariffed rates, terms and conditions that apply to other Copper Valley Elfrida Exchange customers.<sup>17</sup> The monthly per residence access line rate in the Elfrida exchange is \$12.40.<sup>18</sup> Qwest's per line rate for Residence Flat Rate Service is \$13.18 per month within the exchange Base Rate Area ("BRA"). Since the extension areas are located outside the Tombstone and Bisbee BRAs in Zone 2, an additional monthly Exchange Zone Increment charge of \$3.00 would be added to the \$13.18 for a monthly rate of \$16.18.<sup>19</sup>

If Copper Valley's Application is granted, customers in the extension areas would have the same local calling scope as they would have had if they had been served out of Qwest's Tombstone and Bisbee Exchanges.<sup>20</sup> Further, Staff understands that there would be no difference in how emergency calls (i.e. 911 calls) are routed.

Staff has reviewed the construction charge estimates provided by Qwest to extend its facilities to serve residents located in the Tombstone extension area and believes they are consistent with Qwest's tariff. In response to Staff Discovery, Qwest stated that these estimates were developed pursuant to its construction charge tariff.<sup>21</sup>

Copper Valley and Qwest are both incumbent local exchange carriers and both would need to build facilities to serve the extension areas. Copper Valley has already constructed facilities adjacent to the extension areas to serve customers in its existing service area. Valley Telephone has installed a fiber optic cable that extends along Davis Road within the Tombstone extension area that Copper Valley would use to serve potential customers. Given the placement of this fiber optic cable, Copper Valley could serve customers both east and west of the cable route.<sup>22</sup> As a result of the existence of this fiber optic cable, Copper Valley would need to construct much less cable to serve customers in the Tombstone extension area than would Qwest. Copper Valley has estimated that it would cost approximately \$372,000 for the needed facility extensions to serve customers in the Tombstone extension area. However, these customers would not be required to pay any of the costs. Qwest on the other hand, in accordance with its

<sup>16</sup> Refer to Qwest's response to Staff Data Request DWS-2.11.

<sup>17</sup> See Application, Section IV, page 5.

<sup>18</sup> Per Copper Valley Telephone, Inc. General Exchange Tariff, Exchange Services, sheet 6.

<sup>19</sup> Per Qwest's Exchange and Network Services Price Cap Tariff, Exchange Services, Sections 5.1.6 and 5.2.4.

<sup>20</sup> Refer to Copper Valley's response to Staff Data Request DWS-2.24.

<sup>21</sup> Refer to Qwest's response to Staff Data Request DWS-2.11.

<sup>22</sup> Refer to Copper Valley's response to Staff Data Request DWS-1.3.

tariff, would charge each customer several thousand dollars per line in a rural construction charge.

A land developer has requested service from Copper Valley in the Bisbee extension area. Residents located in this area are anxiously waiting to receive telephone service. Qwest does not have facilities or customers in the Bisbee extension area. Copper Valley is ready, willing and able to provide service to the area. If Copper Valley's application is granted, residents located in the Bisbee extension area will obtain telephone service without paying construction charges.<sup>23</sup>

Because of the proximity of its existing facilities to the residents requesting service in the extension areas, Copper Valley could serve most of them within thirty (30) days of a Commission Decision approving its Application. Typically, Qwest would not commence work until it has received signed contracts from a majority of the applicants who have agreed to pay the applicable construction charge. Qwest's tariff requires it to complete this construction within six months.<sup>24</sup>

Copper Valley and Qwest both use state-of-the-art telecommunications facilities to provide service in their respective service areas. If Copper Valley's Application is granted, it will offer a full complement of modern telecommunications services, including high-speed internet access service, to customers in the extension area. Qwest has indicated that its facilities, if extended, would not support high-speed internet access service.

Staff believes that Copper Valley's average cost per customer would not change significantly as a result of Copper Valley serving the extension areas. Any impact on Copper Valley's federal universal service fund support would be minimal.<sup>25</sup> Copper Valley will fund service to the extension areas using existing RUS loan funds and no additional financing will be required.

Copper Valley has received a number of requests for telephone service from persons residing in the extension areas. Those contacting Copper Valley had previously requested service from Qwest but were quoted construction charges that made the extension of service prohibitively expensive. Qwest reportedly advised these persons that there could be significant delays in provisioning service.<sup>26</sup>

The Tombstone extension area includes 121 sections of land. The persons who have been identified as requesting service from Copper Valley are located in only 11 of the 121 sections. Copper Valley is requesting be transferred from the Qwest Tombstone Exchange service area to Copper Valley's Elfrida Exchange. Staff believes that it is reasonable to transfer the entire area requested because there is an existing fiber optic cable running through the area that Copper Valley can use that has sufficient capacity to provide service to all potential customers requesting

<sup>23</sup> See Joint Filing of Copper Valley and Qwest Corporation, Introduction, page 1.

<sup>24</sup> Per Qwest's Arizona Exchange and Network Services Price Cap Tariff, Section 4.1.K.

<sup>25</sup> Refer to Copper Valley's responses to Staff Data Requests DWS-1.5 and 2.18.

<sup>26</sup> See Application, Section II, page 2.



telephone service in the Tombstone extension area. The persons who have been identified as requesting service from Copper Valley are located east and west of the route the fiber optic cable follows. Copper Valley can reasonably be expected to develop a viable plan to serve all potential customers. Qwest supports Copper Valley's Application. Granting the entire Tombstone extension area will avoid multiple requests to transfer additional area in the future.

A total of five complaints against Copper Valley have been received by the Consumer Service's Section since 2003.

#### **B. Staff Recommendations and the Public Interest**

Copper Valley generally asserts that the public interest, convenience and necessity would be served by granting its Application for the following reasons: 1) Copper Valley has received requests for telephone service from persons residing in the extension areas, 2) It is not economically feasible for the potential customers to obtain service from Qwest, 3) Qwest has agreed to the proposed transfer and 4) Copper Valley is ready, willing and able to provide telephone service to customers within the extension areas and customers would not be required to pay construction charges. Staff agrees that the public interest would be served in this case by granting Copper Valley's Application.

In response to Staff Discovery, Qwest stated that it is currently serving two customers with its own facilities in the Tombstone extension area. Both customers are located on Cowan Ranch Road in the west half of Section 3, Township 20 South, Range 23 East.<sup>27</sup> Therefore, Staff recommends that the Tombstone extension area be amended to exclude the west half of Section 3, Township 20 South, Range 23 East.

Qwest has indicated that it does not have any other telecommunications facilities and/or customers in the Tombstone or Bisbee extension areas.<sup>28</sup>

Staff further recommends that transfer of the amended extension areas from Qwest to Copper Valley be approved subject to the following conditions.

- 1) Copper Valley and Qwest should be required to update and docket their respective Tariffs within thirty (30) days of a Commission Decision to reflect the transfer of the amended extension areas.
- 2) Copper Valley should be ordered to charge its existing rates and charges in the amended extension areas until further Order of the Commission.

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<sup>27</sup> Refer to Qwest's response to Staff Data Request DWS-1.5.

<sup>28</sup> Refer to Qwest's response to Staff Data Request DWS-5.1.

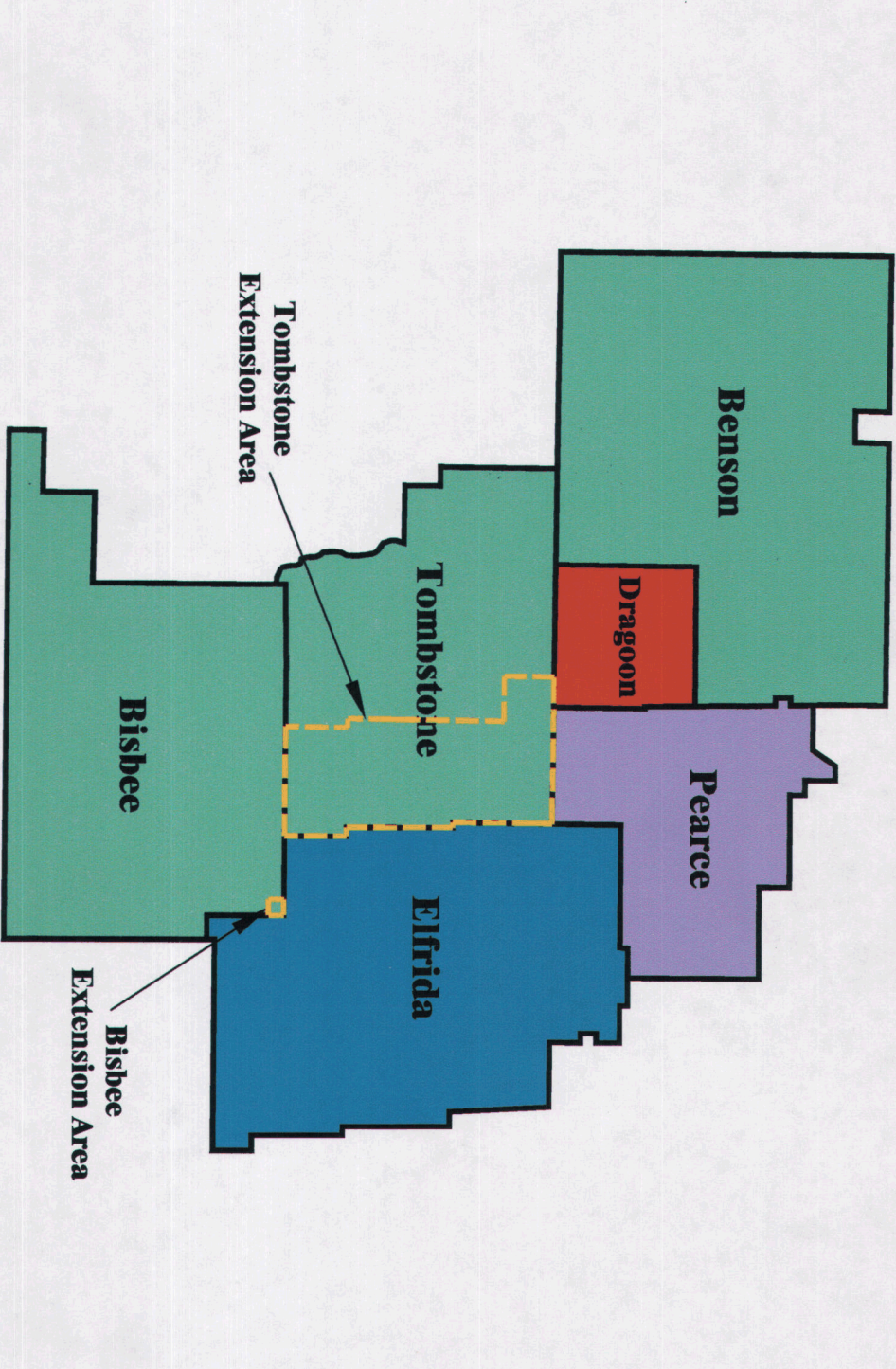
- 3) Copper Valley shall apply to extend its existing Cochise County Franchise within thirty (30) days of a Commission Decision approving its Application.
- 4) Copper Valley shall docket any update to its franchise with Cochise County, which includes the amended extension areas, within 365 days of the effective date of a Decision approving its Application.

**V. Conclusion**

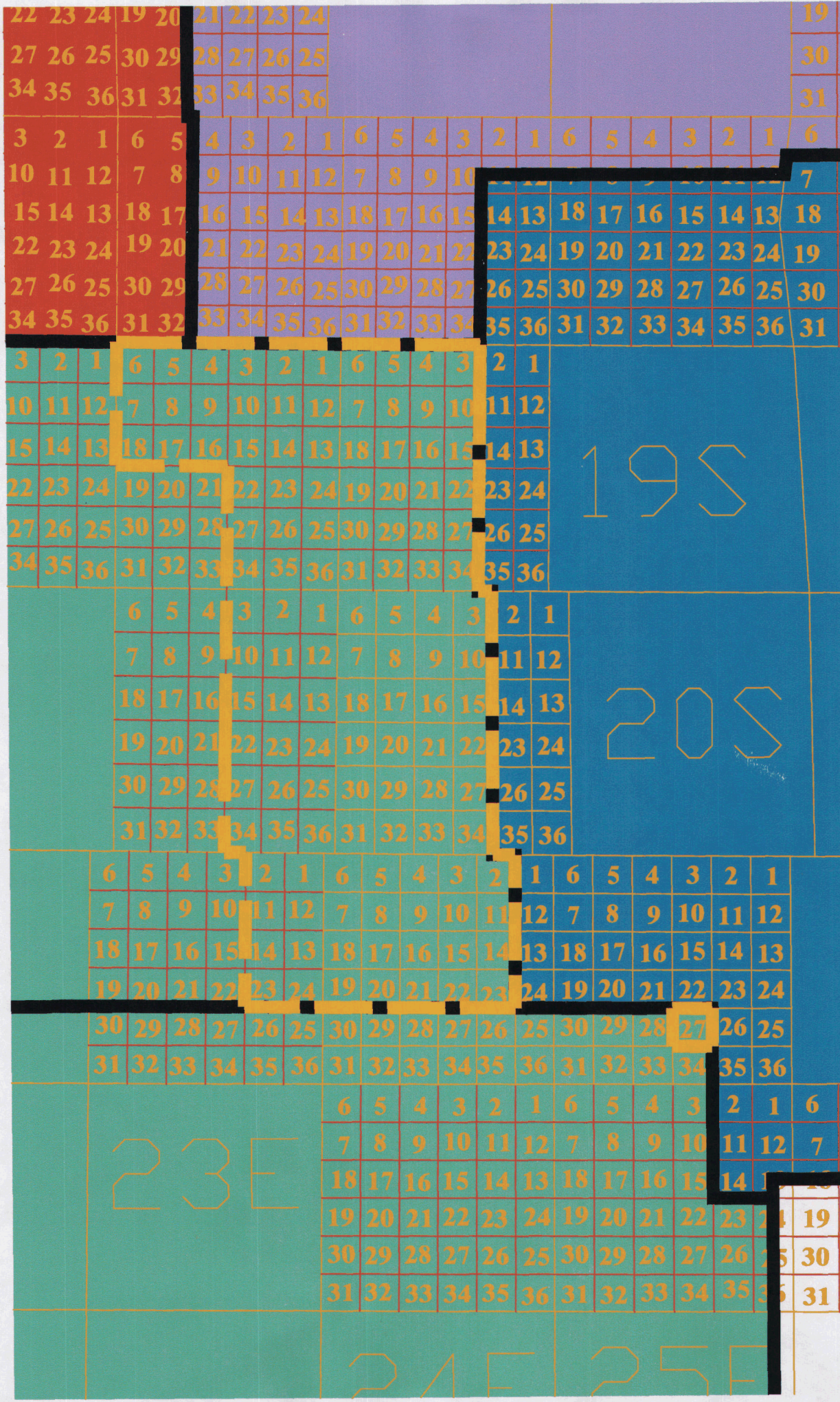
Staff is not aware of any customer opposition to Copper Valley's Application. Staff recommends that the Commission find that Copper Valley's Application for an extension to its CC&N, as amended, is in the public interest. Staff further recommends that Copper Valley's Application, as amended, be approved subject to the conditions discussed above.



**ATTACHMENT 'A'**









## EXHIBIT A

Sections to be transferred from Qwest Corporation to Copper Valley Telephone and incorporated in Copper Valley Telephone's Elfrida Exchange:

Township 19 South, Range 23 East, Sections 1 through 18  
22 through 27  
34 through 36

Township 19 South, Range 24 East, Sections 3 through 10  
15 through 22  
27 through 34

Township 20 South, Range 23 East, Sections 1 through 3  
10 through 15  
22 through 27  
34 through 36

Township 20 South, Range 24 East, Sections 3 through 10  
15 through 22  
27 through 34

Township 21 South, Range 23 East, Sections 1 through 2  
11 through 12  
13 through 14  
23 through 24

Township 21 South, Range 24 East, Sections 2 through 11  
14 through 23

Township 21 South, Range 25 East, Section 27